

[\[back to Help Center \]](#)

Glossary of Patent Terms

[A](#) - [B](#) - [C](#) - [D](#) - [E](#) - [F](#) - [G](#) - [H](#) - [I](#) - [J](#) - [K](#) - [L](#) - [M](#) - [N](#) - [O](#) - [P](#) - [Q](#) - [R](#) - [S](#) - [T](#) - [U](#) - [V](#) - [W](#) - [X](#) - [Y](#) - [Z](#)

Abandon

To explicitly or implicitly relinquish a potential patent right. Simple inaction may render a patent right abandoned.

Affidavit

A signed statement (filed with the patent office) putting appropriate facts or opinions on record.

Anticipation

This is when the prior art indicates that a patent application lacks novelty.

Application (for patent)

Papers comprising petition, specification, drawings (when required), one or more [claims](#), oath or declaration and filing fee, whereby an applicant seeks a patent.

Assignee

The person(s) or corporate body to whom all or limited rights under a patent are legally transferred. Assignment Transfer of all or limited rights under a patent.

Auslegeschrift

An examined German patent application (second publication) now eliminated (see Offenlegungsschrift and Patentschrift).

[\[back to top\]](#)

Basic Patent

The first member of a Derwent WPI patent family. This is the first published patent received by Derwent and processed.

[\[back to top\]](#)

Citations

Citations may be made by the examiner or author. They comprise a list of references that are believed to be relevant prior art and which may have contributed to the "narrowing" of the original application. The examiner can also cite references from technical journals, textbooks, handbooks and sources.

Claim(s)

The definition of the monopoly rights that the applicant is trying to obtain for the invention. The claims become the actual monopoly that is given when the patent is granted. A claim consists of a [specification](#) and one or more claims. Each claim defines a claimed invention by its periphery. A valid claim is one which [reads on](#) the invention described in the specification but does not read on any prior art.

Continuation

Applicable mainly in the U.S., continuations are second or subsequent applications that are filed while the original parent application is pending. Continuations must claim the same invention as the original application to gain the benefit of the parent filing date.

Continuing Applications

There are three types of continuing applications: [division](#), [continuation](#) and [continuation-in-part](#).

Continuations-in-part

Generally referred to as a 'C.I.P.', this is essentially the same as the continuation with the exception that some new material may be included. The C.I.P. must be filed while the original parent application is pending for any disclosed material in common with the parent. The disclosure of the parent is usually amplified and the C.I.P may claim the same or a different invention. A C.I.P application is accorded the benefit of the filing date of the parent application to the extent of the two applications' common subject matter.

[\[back to top\]](#)

Declaratory Judgment

A lawsuit filed to determine where the plaintiff is in doubt as to his legal rights. With respect to patents, this is a lawsuit filed by someone against the patent holder asking the court to declare that the inventor's patent is invalid or that the plaintiff is not [infringing](#) the patent. The possibility of such a lawsuit is a source of concern for poorly financed patent holders who must be careful lest something they do be seen as accusing others of infringement requiring them to defend against a lawsuit often at a distant location and at great expense.

Defensive Publication

A publication and disclosure to the public of a pending patent application.

Design Patent

A type of patent covering the shape characteristics of an object.

Disclosure

The first public disclosure of details of an invention. This may be deliberately revealed outside the patent system to make the invention unpatentable, or what is described in a patent application.

Disposal

In some countries, such as the USA, this refers to where an application has been resolved by being withdrawn, rejected or granted. It can also have the connotation of being rejected only.

Division

If the patent office decides that an application covers too large an area to be considered as a single patent, then the application is split into one or more divisional applications. A divisional application has the same specification as the "parent" but claims a different invention. (see [continuing applications](#))

Doctrine of Equivalents

A doctrine which says that even if a patent claim does not literally read on a possibly infringing device, it can be read more broadly providing it does not [read on](#) the prior art. It is designed to allow the inventor to assert a patent where the differences between the inventor's and an infringer's product are not substantial.

Drawing

One or more specially prepared figures filed as a part of a patent application to explain and describe the invention. Drawings (or illustrations) are more commonly found with inventions for mechanical or electrical devices. As a rule, chemical patents and biotechnology patents will include chemical formulae drawings or genetic code in the description of the invention and/or in the examples.

Duty of Disclosure

This is a requirement imposed on all persons involved with the patenting process to disclose information (patents, articles, laboratory data etc.) to the patent examiner that may affect the granting of a patent.

[\[back to top\]](#)

Equivalent

A patent that relates to the same invention and shares the same priority application as a patent from a different issuing authority. Specifications published by different patent offices all relating to the same invention and all sharing the same priority application (See [non-convention](#)

[equivalents](#)).

European Patent Convention (EPC)

Twenty western European countries are parties to the European Patent Convention (as of November 2000). A patent application filed under this convention will, when granted, usually automatically be effective in each of the countries designated by the applicant.

Examiner

A patent office official who is appointed to determine the patentability of applications.

Example

A patent office official who is appointed to determine the patentability of applications.

Expiry Date

The date when a patent has run its full term in a country and is no longer protected there (see also [lapse](#)).

[\[back to top\]](#)

Filing Date

The date when the application reaches the patent office in complete form.

First to File

In the European patent system, the patent is awarded to the first person to file an application on that invention independent of who was the first to invent. The applicant who is the first to file an application for an invention will be awarded the patent over all others. This is the present law in all countries other than the USA and the Philippines.

First to Invent

In the US and the Philippines, the patent is awarded to the first person to make an invention independent of who first files an application for that invention.

Forfeited Application

An application on which the issue or maintenance fee has not been paid within the designated period.

[\[back to top\]](#)

Grant

A temporary right given by a patent office for a specified period, to prevent anyone else from using the technology defined in the claims of a patent.

[\[back to top\]](#)

Infringement

Encroach or trespass on the rights of others, usually involving intellectual property. 2) To make, use or sell the patented item or process within the country covered by the patent without permission or license from the patentee. A device infringes on a patent if the claims of a valid patent read on that device.

Intellectual Property

Intellectual property refers to creations — including inventions, artistic works, names and designs — that are legally protected. Intellectual property includes patents, copyrights, trademarks and trade secrets.

Interference

A procedure declared by the patent office when it appears that two or more people made the same invention at roughly the same time. It is an expensive, lengthy court-like proceeding designed to determine who was the first true inventor. About 1/10 of 1% of patents are involved in interference proceedings.

[\[back to top\]](#)

Kind Code or Kinds

The letter, often with a further number, indicating the level of publication of a patent. For example DE-A1 is the German Offenlegungsschrift (application laid open for public inspection) while a DE-C1 is the German Patentschrift (first publication of the granted patent).

Kokai

An unexamined Japanese patent application.

Kokoku

An examined and allowed Japanese patent application.

[\[back to top\]](#)

Lapse

The date when a patent is no longer valid in a country or system due to failure to pay renewal (maintenance) fees. Often the patent can be reinstated within a limited period.

License

A transfer of patent rights that does not amount to an assignment. A license, which can be exclusive or non-exclusive, does not give the licensee the legal title to the patent.

[\[back to top\]](#)

Markush

A term used to describe the series of compounds covered by a patent claim, where the compound is defined as a basic structure with a variable list of possible substitutes (e.g. where R=H, alkyl, aryl etc.).

[\[back to top\]](#)

Non-Convention Equivalents

An application filed in a second or subsequent country that does not claim a priority application in another country. Usually a result of filing the application after the 12-month Convention period, but may be within that period by choice of the applicant (See [equivalent](#)).

Novelty

The concept that the [claims](#) must be totally new. The invention must never have been made public in any way, anywhere, before the date on which the application for a patent is filed. In the U.S. this is determined by the date of invention.

[\[back to top\]](#)

Obviousness

The concept that the [claims](#) defining an invention in a patent application must involve an inventive step if, when compared with what is already known (i.e. [prior art](#)), it would not be obvious to someone skilled in the art.

Offenlegungsschrift

A published unexamined German patent document (see [Auglegeschrift](#)).

Opposition

The time period allowed for an interested party to post oppositions to the grant of a patent. For example, this may be up to nine months from the date of grant of a European patent.

[\[back to top\]](#)

Paris Convention

Having filed a first patent application (usually in his/her own country), the applicant is allowed one year from that date in which to make further applications in member countries and claim the original priority date. Signatories to the Paris Convention (established March 20, 1883) are

allowed one year from first filing their patent application (usually in their own country) in which to make further applications in member countries and claim the original priority date.

Patent

A document issued by the Patent office that purports to give an inventor the exclusive right to make use and sell an invention as specified in the claims of that patent. A patent, which is the mature form of a patent application, consists of drawings of the invention, a specification explaining it, and claims which define the scope of exclusivity.

Patent Application

A document submitted by an inventor to request he be issued a patent. It consists of the elements of a patent but will likely be modified during patent prosecution.

Patent Cooperation Treaty (PCT)

There are currently 108 contracting states to this treaty (as of June 2000). The PCT system offers an advantageous route for international patent protection with reduced costs. There are currently 96 signatories to this treaty. Contracting states may file an international application designating member states. If an applicant wants to press for grant in any of their designated states the patent application is moved to the national phase(s) but may carry the PCT priority filing date.

Patentability

The ability of an invention to satisfy the legal requirements for obtaining a patent, including novelty. In some countries certain types of inventions, e.g. computer software and plants, may be unpatentable.

Patent Family

All the equivalent patent publications corresponding to a single invention, covering different geographical regions.

Patentschrift

A granted German patent application.

Pending

The period in which the patent office has not yet decided whether to reject or to grant a patent application, and it has not yet been withdrawn.

Preliminary Examination

The initial study of an application by an official in the patent office to check that the specification is properly arranged and for preparing search reports.

Prior Art

Previously used or published technology that may be referred to in a patent application or examination report. (a) In a broad sense, technology that is relevant to an invention and was publicly available (e.g. described in a publication or offered for sale) at the time an invention was made. (b) in a narrow sense, any such technology which would invalidate a patent or limit its scope. The process of prosecuting a patent or interpreting its claims largely consists of identifying relevant prior art and distinguishing the claimed invention from that prior art.

Priority Date

The initial date of filing of a patent application, normally in the applicant's domestic patent office. This date is used to help determine the [novelty](#) of an invention.

Publication

Documents, including patents of most countries that are printed (published) and are actually or presumptively available to the public.

[\[back to top\]](#)

Read On

A claim reads on something, if every element of that claim is present in that which it reads on. If a claim reads on prior art, then the claim is invalid. A claim must read on an accused device for infringement to occur.

Record

That evidence which is before the court or patent office on which a decision can be made. In a patent prosecution that consists of such things as the inventor's oath, the patent application, any affidavits submitted, and any prior art.

Rejection

When a patent application is refused by a patent office.

Renewal Fees

Payments that must be made by the applicant to the patent office in order to keep the patent in force and prevent it from lapsing. In the USA, these are termed maintenance fees.

Research Disclosure

Defensive-type publications which are published, often anonymously, to give companies and inventors "freedom of use" rather than legal protection. Once research disclosures are published the invention described cannot be patented.

Revocation

Termination of the protection given to a patent on one or more grounds, e.g. lack of novelty.

[\[back to top\]](#)

Search Report

A list of published items (both patent and non-patent literature), issued by the patent examiners checking the [novelty](#) of the patent application, which are relevant to the subject of the invention.

Small Entity

The patent statutes distinguish two type of applicants, small entities and large entities for the determination of fees. Small entities often pay about half of what a large entity would for the same service. A small entity includes companies with less than 500 employees and non-profit and academic institutions. Often the term is used informally to distinguish the smaller, newer and more entrepreneurial inventor entities, from the older, larger established ones.

Specification

That part of the patent which describes the invention in sufficient detail so that someone knowledgeable in the art could practice it. It is the main part of the patent. The term does not imply that the invention is necessarily new or was ever protected. This includes the description, drawings and [claims](#) of an invention prepared to support a patent application.

Status

The legal standing of a patent or patent application, i.e. whether it is pending, lapsed, still protected, etc.

Substantive Examination

The full examination of a patent application's substance or content by a patent office examiner, to determine whether a patent should be granted.

[\[back to top\]](#)

Term of Patent

The maximum number of years that the monopoly rights conferred by the grant of a patent may last.

[\[back to top\]](#)

Utility

Fitness for some desirable practical or commercial purpose.

Utility Model

In some countries, a type of patent which is available involving a simpler inventive step than that in a traditional patent. Such patents generally have a shorter life.

USPTO (Patent and Trademark Office)

The office of the U.S. Department of Commerce that is responsible for examining and issuing patents.

[\[back to top\]](#)

Valid

A valid patent is an issued patent that is not invalid for one of several reasons, the most common of which is that one or more of its claims read on prior art that was not considered by the patent office during patent prosecution. While only a court can hold a patent is invalid, many patents are informally referred to as being invalid to indicate that a court would likely rule them so.

World Intellectual Property Office (WIPO)

The organization that administers the [Patent Cooperation Treaty \(PCT\)](#).

[\[back to top\]](#)